

**Notice of Allowability**

Application No.

10/712,744

Applicant(s)

BOGAN ET AL.

Examiner

Art Unit

Robert Shiao

1626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to December 22, 2004.
2. ☒ The allowed claim(s) is/are 6-18, now are 1-13.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance             |
|   | 9. <input type="checkbox"/> Other _____  |

### **DETAILED ACTION**

1. This claims benefit of the provisional application:  
60/336,582 with a filing date December 4, 2001.
2. Amendment of claims 6 and 8 in the amendment filed on December 22, 2004, is acknowledged. Claims 6-26 are pending in the application.

### ***Responses to Election/Restriction***

3. Applicant's election without traverse of Group I claims 6-18 in the reply filed on December 22, 2004, is acknowledged. Claims 6-18 are prosecuted in the case. Claims 19-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention. The requirement is still deemed proper and is therefore made **FINAL**.

### ***Responses to Amendment***

4. Since limitation of products carboxylic acid and reactants alkane has been incorporated into claim 6, therefore, rejection of claims 6-18 under U.S.C. 112, first paragraph, has been overcome in the amendment filed on December 22, 2004.
5. Since limitation of first catalyst has been incorporated in to claim 6, therefore, the instant processes of claim 6 do not render obviousness over Karim et al. US 6,531,631. Therefore, rejection of claims 6-18 under 35 U.S.C. 103(a) has been overcome in the amendment filed on December 22, 2004.

6. Since limitation of first catalyst has been incorporated in to claim 6, therefore, the instant processes of claim 6 do not render obviousness over Lin et al. US 6,180,825. Therefore, rejection of claims 6-18 under obviousness-type double patenting has been overcome in the amendment filed on December 22, 2004. Since limitation of first catalyst has been incorporated in to claim 6, therefore, the instant processes of claim 6 do not render obviousness over Bogan et al. co-pending Application No. 09/962,998. Therefore, provisional rejection of claims 6-18 under obviousness-type double patenting has been overcome in the amendment filed on December 22, 2004.

#### ***EXAMINER'S AMENDMENT***

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Marcella M. Bodner on February 24, 2005. The application has been amended as follows:

Delete claims **19-26**

#### ***Reasons for Allowance***

8. The following is an examiner's statement of reasons for allowance:

Claims 6-18 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. This invention relates to process for the preparation of

olefins, unsaturated carboxylic acids and unsaturated nitriles from alkane. The closest reference is Karim et al. US 6,531,631, discloses oxidation of ethane to acetic acid and ethylene using molybdenum and vanadium based catalysts. The difference between instant claims and Karim et al. is that the instant processes and catalyst are not disclosed in the reference. Suggestion for modification of above reference to obtain the instant processes has not been found. Claims 6-18 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM.

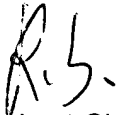
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert Shiao, Ph.D.  
Patent Examiner  
Art Unit 1626

February 25, 2005



Rita Desai  
Primary Patent Examiner  
Technology Center 1600  
Tel: (571) 272-0684

